

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 30TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE P.VISHWANATHA SHETTY

Writ Petition No.20982/1997

1. Shri Chennappa Gowda
S/o late Sri Iyathiappa
Gowda,
Aged about 40 years.

2. Smt. Lakshmi
W/o late Sri Iyathiappa
Gowda,
Aged about 60 years.

..Petitioners

Both are residing at
Veerakamba village,
Buntwal Taluk,
Dakshina Kannada Dist.

(By Sri Deshraj,
Advocate)

Vs.

1. The State of Karnataka
by its Principal Secretary,
Revenue Department,
M.S.Buildings,
Bangalore-1.

2. The Karnataka Appellate
Tribunal,
M.S.Buildings,
Dr.Ambedkar Veedhi,
Bangalore-1, represented
by its Registrar.

3. The Special Deputy Commis-
sioner (MSTP),
Dakshina Kannada District,
Mangalore.

4. The Assistant Commissioner,
Mangalore Sub-Division,
Mangalore.

5. The Tahsildar,
Buntwal Taluk,
Buntwal.
6. Sri C.V.Gopalakrishna
S/o Venkataramaiah,
major,
R/o Kalinja Veerakamba,
Buntwal Taluk,
Dakshina Kannada Dist.
7. The Chairman,
Grant Committee for
Regularisation of
Unauthorised Occupation,
Buntwal Taluk,
Dakshina Kannada Dist.
..Respondents


(By Sri B.E.Kotian,
Government Advocate for
respondents 1 to 5 and 7;
Sri B.M.Krishna Bhat,
Adv. for Respondent-6)

Writ Petition filed under Articles 226 and 227 of the Constitution of India with an affidavit praying for the quashing of the order dated 22-9-1989 passed by the 5th respondent vide Annexure-B, order dated 31-3-1990 passed by the 4th respondent vide Annexure-C and also the order dated 26-11-1991 passed by the third respondent vide Annexure-D, etc.

This petition coming on for hearing before Court this day, the Court made the following:

O R D E R

In this petition, the petitioners, who claim to be in unauthorised occupation of land measuring 2 acres 85 cents in Survey No.20/2A situated at Veerakamba village, Buntwal Taluk, Dakshina Kannada, have called in question the correctness of the order



dated 22nd of September 1989, a copy of which has been produced as Annexure-B, passed by the 5th respondent; order dated 31st of March 1990, a copy of which has been produced as Annexure-C, passed by the 4th respondent; and also order dated 26th of November 1991, a copy of which has been produced as Annexure-D, passed by the third respondent.

2. Sri Deshraj, learned Counsel appearing for the petitioner, made several submissions in support of the plea that the orders impugned are liable to be quashed by this Court.

3. Sri Krishna Bhat, learned Counsel appearing for the 6th respondent, in the light of the discussion that had taken place in the course of the hearing of this petition, fairly submitted that since the dispute between the parties concerning the land in question, is pending adjudication before the Civil Court in two suits and also the application filed by the petitioner in Form No.50 seeking regularisation of his unauthorised occupation of the land in



question is also pending consideration before the 7th respondent-Committee constituted under Section 94-A of the Karnataka Land Revenue Act, he has no objection for this Court to set aside the impugned orders reserving liberty to the parties to agitate their respective claims in the suit pending before the Civil Court and also before the Committee.

4. Sri Deshraj has no objection for this Court to adopt the said course.

5. In the light of the joint submission made by the learned Counsel appearing for the parties as stated above, the orders impugned are hereby quashed.

6. The 7th respondent-Committee is directed to dispose of the application filed by the petitioners in Form No.50 as provided under Section 94-A of the Act, as expeditiously as possible and at any event of the matter, not later than nine months from the date of receipt of a copy of this order.



7. However, it is made clear that for any reason, if the application stated to have been filed by the petitioner in Form No.50 is not available, the request made by the petitioner seeking regularisation of his alleged unauthorised occupation of the land in question, which has been pending consideration before the Tahsildar, must be treated as an application in Form No.50 and the said application is required to be disposed of by the Committee, as stated above.

8. It is needless to observe that the Civil Court, which is ceased of the suits, and the Committee, which is required to consider the claim of the petitioner for regularisation of the unauthorised occupation of the petitioner and also the claim of the 6th respondent that he has 'Kumki' right in respect of the land in question, are required to consider the matters on the basis of the material placed before them and without being influenced by the observations made in the course of this order.



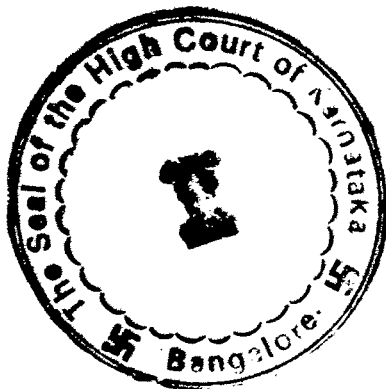
406

- 6 -

9. All the contention of the parties are left open to be urged before the Civil Court and the 7th respondent-Committee.

10. Accordingly, this petition is allowed and disposed of in terms stated above. Rule issued is made absolute.

11. Sri B.E.Kotien, learned Government Advocate, is permitted to file his memo of appearance within four weeks from today.



Sd/-
JUDGE

ANB.